IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No. 87 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE D.A.MEHTA
HON'BLE MS.JUSTICE H.N.DEVANI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

COMMISSIONER OF WEALTH-TAX - Applicant(s)

Versus

MEHUL K PATEL - Respondent(s)

==========

Appearance :
MR MANISH R BHATT for Petitioner No(s).: 1.

SERVED BY RPAD - (N) for Respondent No(s).: 1.
==========

CORAM : HON'BLE MR.JUSTICE D.A.MEHTA
and
HON'BLE MS.JUSTICE H.N.DEVANI

Date : 01/08/2005

ORAL JUDGMENT

(Per : HON'BLE MS.JUSTICE H.N.DEVANI)

1.The Income Tax Appellate Tribunal, Ahmedabad Bench

"C" has referred the following question under Section 27(1) of the Wealth Tax Act, 1957 (the Act) for the opinion of this Court at the instance of the Commissioner of Wealth-tax, Baroda:

> "Whether, on the facts and in the circumstances of the case, Tribunal is right in law in holding that the unquoted equity shares of Limited Company should be valued on yield method under Rule 1-D of the W.T. Rules, 1957?"

2. The question as framed by the Tribunal does not reflect the controversy in a proper manner and hence, the same is re-framed as under :

> "Whether, on the facts and in the circumstances of the case, Tribunal is right in law in holding that the unquoted equity shares of Limited Company should be valued on yield method and Rule 1-D of the W.T.

Rules, 1957 is directory?”

3.The assessment year is 1985-86 and the relevant valuation date is 31/3/1985.

4.Heard Mr.M.R.Bhatt, the learned senior standing counsel on behalf of applicant revenue. Despite service of notice, there is no appearance on behalf of the respondent assessee.

5.Mr.Bhatt has invited the attention of this Court to the decision of the Apex Court in the case of Bharat Hari Singhania v. C.W.T., (1994) 207 ITR 1, to point out that the issue involved in the present reference stands concluded in favour of the revenue by the said decision. In the circumstances, it is not necessary to set out the facts in detail.

6.In the aforesaid case, the Apex Court has held that Rule 1-D of the Wealth Tax Rules, 1957 has to be followed in every case where unquoted equity shares of a company (other than investment company or a managing agency company) have to be valued. All

the authorities under the Act including the Valuation Officer are bound by the said rule. That, the question of the rule being mandatory or directory does not arise. Applying the ratio of the said decision, it is held that the Tribunal was not right in law in holding that the unquoted equity shares of Limited Company should be valued on yield method and Rule 1-D of the Wealth Tax Rules, 1957 is directory.

7. Accordingly, the question referred to this court is answered in the negative i.e. in favour of the revenue and against the assessee. The Reference stands disposed of accordingly.

[D.A.MEHTA, J.]

[HARSHA DEVANI, J.]

parmar*